



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/752,050	01/06/2004	David S. Benco	LUTZ 2 00265	6126
48116	7590	02/06/2008	EXAMINER	
FAY SHARPE/LUCENT 1100 SUPERIOR AVE SEVENTH FLOOR CLEVELAND, OH 44114			LAI, DANIEL	
			ART UNIT	PAPER NUMBER
			2617	
			MAIL DATE	DELIVERY MODE
			02/06/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/752,050	BENCO ET AL.	
	Examiner	Art Unit	
	Daniel Lai	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/ are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Response to Arguments

Applicant's arguments with respect to claims 1-47 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 2, 4-8, 10-13, 16-21, 23-27 and 29-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Call Center Plus (<http://web.archive.org/web/20030210080601/callcenterplus.com/pricing.html>), hereinafter CCP in view of Dahm et al. (US 6,301,471 B1, hereinafter Dahm).

Regarding claims 1 and 20, CCP discloses a method for charging a subscriber for time usage ("Pricing"). CCP discloses determining a first reference billing rate for a first category of time usage ("USING OUR TOLL FREE NUMBER"). CCP discloses determining a first threshold time usage amount for the first category of time usage ("First: 1-1000 Minutes"). CCP discloses determining a quantity of first category time usage consumed by the subscriber ("Pricing", where CCP discusses the time usage for a subscriber). CCP discloses determining a first discounted billing rate for the first category of time usage that is less than the first reference rate based on a function of time usage ("Next: 1001-2000 minutes"). CCP discloses charging a first discounted billing rate for at least some first category time consumed by the subscriber in excess of the first threshold time usage amount ("Next: 1001-2000 minutes"). CCP does not explicitly disclose the time usage is airtime and that the discounted billing rate is based on a function of customer loyalty. In an analogous art, Dahm discloses a method and system to provide subscriber loyalty and retention techniques (col. 2, lines 21-43). Dahm discloses offering bettering rates in exchange for longer-term commitment to customers that are likely to churn (col. 11, line 67-col. 12, line 31). Dahm further discloses likelihood of a Customer churning increases each passing month (col. 1, lines 19-27). Dahm also discloses the time usage by a

subscriber is air time usage (col. 2, line 28-41). Both CCP and Dahm are intended to retain customers (see CCP: "Pricing", where CCP discusses loyal customer, Dahm: Abstract, col. 1, lines 9-27). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to combine the billing method as disclosed by CCP with the loyalty retention system as disclosed by Dahm so that a service provider can retain existing subscribers and increase profit by retaining subscribers. Regarding claim 20, CCP further lacks means to perform the method of claim 1. Dahm discloses means for managing subscribers account information (col. 4, line 49-col. 9, line 51, Fig. 1 and 2A and 2B). It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the billing method as disclosed by CCP with apparatus to perform billing function as disclosed by Dahm in order to implement the billing method.

Regarding claims 2 and 21, CCP in view of Dahm further discloses method and means for charging the first reference rate for an amount of first category airtime consumed by the subscriber up to the first threshold airtime amount ("First: 1-1000 Minutes").

Regarding claims 4 and 23, CCP in view of Dahm further discloses method and means for determining a second threshold airtime amount, greater than the first threshold airtime amount, determining a second discounted billing rate for the first category of airtime that is less than the first discount rate, and charging the second discounted billing rate for at least some first category airtime consumed by the subscriber in excess of the second threshold airtime amount ("2000+ minutes").

Regarding claims 5, 6, 24 and 25, CCP in view of Dahm discloses the limitations of claims 4 and 23 as applied above. CCP does not teach a third threshold airtime amount with a

third discounted billing rate. CCP also lacks a forth threshold airtime amount with a forth airtime discounted billing rate. However, since CCP discloses a first and a second threshold airtime amount with a first and second discounted billing rate, respectively, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the billing method and apparatus as disclosed by CCP and Dahm with further threshold airtime amount and further discounted billing rates to attract customers to consume more.

Regarding claims 7 and 26, CCP in view of Dahm further discloses method and means for determining a first reference billing rate for a first category of airtime (“USING YOUR OWN TOLL FREE NUMBER”). CCP discloses determining a first threshold airtime amount for the first category of airtime (“First: 1-1000 Minutes”). CCP discloses determining a quantity of first category airtime consumed by the subscriber (“Pricing”, where CCP discusses the airtime usage for a subscriber). CCP discloses determining a first discounted billing rate for the first category of airtime that is less than the first reference rate (“Next: 1001-2000 minutes”). CCP discloses charging the first discounted billing rate for at least some first category airtime consumed by the subscriber in excess of the first threshold airtime amount (“Next: 1001-2000 minutes”).

Regarding claims 8 and 27, CCP in view of Dahm further discloses method and means for charging the second reference rate for second category airtime consumed by the subscriber up to the second category first threshold airtime amount (“USING YOUR OWN TOLL FREE NUMBER”, where CCP discusses rates).

Regarding claims 10 and 29, CCP in view of Dahm further discloses method and means for determining a second category second threshold airtime amount, greater than the second

category first threshold airtime amount, determining a second category second discounted billing rate for at least some second category airtime consumed by the subscriber in excess of the second category second threshold airtime amount, and charging the second category second discounted billing rate for at least some second category airtime consumed by the subscriber in excess of the second category second threshold airtime amount (“USING YOUR OWN TOLL FREE NUMBER”, where CCP discusses 2000+ minutes).

Regarding claims 11, 12, 30 and 31, CCP in view of Dahm discloses the limitations of claim 10 as applied above. CCP does not teach a third threshold airtime amount with a third discounted billing rate. CCP also lacks a forth threshold airtime amount with a forth airtime discounted billing rate. However, since CCP discloses a first and a second threshold airtime amount with a first and second discounted billing rate, respectively, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the billing method and apparatus as disclosed by CCP and Dahm with further threshold airtime amount and further discounted billing rates to attract customers to consume more.

Regarding claims 13 and 32, CCP in view of Dahm discloses the limitations of claims 1 and 20 as applied above. CCP does not disclose determining a time period the subscriber has been a customer and determining the first discounted billing rate based on a function of the time period the subscriber has been a customer that generates a larger discount for longer customer time periods. Dahm discloses a method and system to provide subscriber loyalty and retention techniques (col. 2, lines 21-43). Dahm discloses offering bettering rates in exchange for longer-term commitment to customers that are likely to churn (col. 11, line 67-col. 12, line 31). Dahm further discloses likelihood of a Customer churning increases each passing month (col. 1, lines

19-27). Dahm also discloses the time usage by a subscriber is air time usage (col. 2, line 28-41).

Both CCP and Dahm are intended to retain customers (see CCP: "Pricing", where CCP discusses loyal customer, Dahm: Abstract, col. 1, lines 9-27). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to combine the billing method as disclosed by CCP with the loyalty retention system as disclosed by Dahm so that a service provider can retain existing subscribers and increase profit by retaining subscribers.

Regarding claim 16, CCP discloses a method for charging a subscriber for time usage ("Pricing"). CCP discloses associating one or more reference billing rates with a respective one or more time usage categories in a calling plan ("Pricing", where CCP discusses "USING OUR TOLL FREE NUMBER" and "USING YOUR OWN TOLL FREE NUMBERS"). CCP discloses determining one or more respective discounted billing strategies for charging for time usage consumed by the subscriber in excess of one or more calling plan limits associated with a calling plan of the subscriber ("Pricing", where CCP discusses various discounted billing rates). CCP discloses determining one or more time usage amounts in the one or more time usage categories consumed by the subscriber in a time usage billing period ("Pricing", where CCP discusses minutes). CCP discloses applying one of the one or more reference billing rates and a flat fee for respective portions of the one or more time usage amounts that are within the one or more calling plan limit to determine basic charges ("First 1-1000 Minutes"). CCP discloses applying the one or more discounted billing strategies to portions of the one or more time usage amounts that are in excess of the calling plan to determine discounted surcharges ("Next: 1001-2000 minutes"). CCP discloses combining the basic charges and discounted surcharges to determine a total charge for the subscriber for the billing period ("First: 1-1000 Minutes" – "2000+ minutes"). CCP does

not explicitly disclose the time usage is airtime and that the discounted billing rate is based on a function of customer loyalty. In an analogous art, Dahm discloses a method and system to provide subscriber loyalty and retention techniques (col. 2, lines 21-43). Dahm discloses offering bettering rates in exchange for longer-term commitment to customers that are likely to churn (col. 11, line 67-col. 12, line 31). Dahm further discloses likelihood of a Customer churning increases each passing month (col. 1, lines 19-27). Dahm also discloses the time usage by a subscriber is air time usage (col. 2, line 28-41). Both CCP and Dahm are intended to retain customers (see CCP: "Pricing", where CCP discusses loyal customer, Dahm: Abstract, col. 1, lines 9-27). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to combine the billing method as disclosed by CCP with the loyalty retention system as disclosed by Dahm so that a service provider can retain existing subscribers and increase profit by retaining subscribers.

Regarding claims 17 and 18, CCP further discloses the discounted billing strategies comprises of selecting one or more airtime consumption thresholds for each of the one or more time usage categories ("Pricing") and calculating discounted billing rate associated with time usage consumption thresholds based on a function of the amount of time usage consumed in one or more time usage categories during a period of interest, the function selected to generate larger discounts for the amount of time usage consumed in the one or more time usage categories ("Pricing", where CCP discusses larger discounts for more minutes consumed).

Regarding claim 19, CCP in view of Dahm discloses the limitations of claim 16 as applied above. CCP does not teach processing call detail records generated by calls associated with the subscriber during the billing period. Dahm discloses a user account record with detailed

account information (col. 7, line 65-col. 8, line 12). Dahm discloses the billing records are periodically analyzed to develop a churn susceptibility (col. 13, lines 11-26). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the discount billing method as disclosed by CCP with call detail records as disclosed by Dahm such that customers who are likely to churn can be identified and therefore actions can be performed to retain the customers.

Claims 3, 9, 22, 28 rejected under 35 U.S.C. 103(a) as being unpatentable over CCP in view of Dahm as applied to claims 1 and 20 above, and further in view of Whewell (US 2004/0043754 A1).

Regarding claims 3, 9, 22 and 28, CCP in view of Dahm discloses the limitations of claims 1 and 20 as applied above. CCP does not teach charging a flat fee for airtime consumed by the subscriber up to the first airtime amount. Whewell discloses a billing method that does not penalize consumers for excessive use of cellular services and which increases consumer loyalty to provider of cellular services by charging a flat fee for up to a threshold and a rate per minute for service used exceeded the threshold level (paragraphs 2-3). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify CCP with Whewell to charge a flat fee up to a first threshold and a rate per minute for service used exceeded the threshold level in order to increase consumer loyalty to the service provider.

Claims 14, 15, 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over CCP in view of Dahm as applied to claims 1 and 20 above, and further in view of Ruckart (US 7,324,963 B1).

Regarding claims 14, 15, 33 and 34, CCP in view of Dahm discloses the limitations of claims 1 and 20 as applied above. CCP does not teach determining discounted billing rate based on a calling plan subscription or determining a time period the subscriber has been a customer. Dahm disclose offering bettering rates in exchange for longer-term commitment to customers that are likely to churn (col. 11, line 67-col. 12, line 31). Dahm further discloses likelihood of a Customer churning increases each passing month (col. 1, lines 19-27). Therefore, CCP in view of Dahm discloses determining a discounted billing rate based on time period the subscriber has been a customer and generates larger discounts for longer customer time periods and higher cost subscription plans, but fails to teach determining a discounted billing rate based on calling plan subscription cost. In a similar field of endeavor, Ruckart discloses a method and apparatus for providing discounted billing rates customers for wireless telephone services (Abstract, col. 3, lines 33-36). Ruckart discloses providing a greater discount if more expensive products are selected (col. lines 51-56). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify CCP and Dahm with Ruckart to determine a discounted billing rate based on the price of a product is selected in order to provide a variable pricing structure that rewards customers for choosing a greater number of goods and services (col. 2, lines 5-19).

Claims 35 and 37-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Money (US 2004/0009761 A1, hereinafter Money) in view of Dahm.

Regarding claim 35, Money discloses a system operative to charge a progressively lower rate for airtime consumed by a subscriber during a billing period (Abstract, paragraph 70). Money discloses a call record reviewer operative to determine one or more total quantities of

airtime consumed in one or more airtime categories during the billing period (paragraphs 40-41, where Money discusses billing aggregator). Money discloses a graduated biller operative to apply one or more charges for portions of the one or more total quantities of airtime that are below one or more threshold quantities and to apply at least one discounted billing rate to one or more portions of the one or more total quantities of airtime that are above the one or more threshold quantities of airtime (paragraph 70). Money does not explicitly disclose the discounted billing rate is based on a function of customer loyalty. In an analogous art, Dahm discloses a method and system to provide subscriber loyalty and retention techniques (col. 2, lines 21-43). Dahm discloses offering bettering rates in exchange for longer-term commitment to customers that are likely to churn (col. 11, line 67-col. 12, line 31). Dahm further discloses likelihood of a customer churning increases each passing month (col. 1, lines 19-27). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to combine the billing system as disclosed by Money with the loyalty retention system as disclosed by Dahm so that a service provider can retain existing subscribers and increase profit by retaining subscribers.

Regarding claims 37 and 38, Money further discloses the graduated biller is operative to apply a charge based on one or more reference billing rates for portions of the one or more total quantities of airtime that are below one or more calling plan limits and apply a discounted billing rate for the airtime quantities above one or more calling plan limits (paragraphs 70-80, where Money discusses charging a billing rate below a threshold and billing plan).

Regarding claims 39 and 40, Money in view of Dahm discloses the limitations of claim 35 as applied above. Money further discloses the billing system may use more than two billing modes (paragraph 82) and a discount rate with a first threshold to encourage use of a cellular

network (paragraph 70), but does not expressly disclose a second or third threshold. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the billing system as disclosed by Money and Dahm with further threshold airtime amount and further discounted billing rates to encourage customers to utilize a cellular network.

Regarding claim 42, Money in view of Dahm discloses the limitations of claim 35 as applied above. Money does not teach determining a time period the subscriber has been a customer and determining the first discounted billing rate based on a function of the time period the subscriber has been a customer that generates a larger discount for longer customer time periods. Dahm discloses a method and system to provide subscriber loyalty and retention techniques (col. 2, lines 21-43). Dahm discloses offering bettering rates in exchange for longer-term commitment to customers that are likely to churn (col. 11, line 67-col. 12, line 31). Dahm further discloses likelihood of a Customer churning increases each passing month (col. 1, lines 19-27). Dahm also discloses the time usage by a subscriber is air time usage (col. 2, line 28-41). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to combine the billing system as disclosed by Money with the loyalty retention system as disclosed by Dahm so that a service provider can retain existing subscribers and increase profit by retaining subscribers.

Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Money in view of Dahm as applied to claim 35 above, and further in view of Whewell.

Money in view of Dahm discloses the limitations of claim 35 as applied above. Money does not teach charging a flat fee for airtime consumed by the subscriber up to the first airtime amount. Whewell discloses a billing method that does not penalize consumers for excessive use

of cellular services and which increases consumer loyalty to provider of cellular services by charging a flat fee for up to a threshold and a rate per minute for service used exceeded the threshold level (paragraphs 2-3). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Money with Whewell to charge a flat fee up to a first threshold and a rate per minute for service used exceeded the threshold level in order to increase consumer loyalty to the service provider.

Claims 43 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Money in view of Dahm as applied to claim 35 above, and further in view of Ruckart.

Regarding claims 43 and 44, Money in view of Dahm discloses the limitations of claim 35 as applied above. Money does not teach determining discounted billing rate based on a calling plan subscription or determining a time period the subscriber has been a customer. Dahm disclose offering bettering rates in exchange for longer-term commitment to customers that are likely to churn (col. 11, line 67-col. 12, line 31). Dahm further discloses likelihood of a Customer churning increases each passing month (col. 1, lines 19-27). Therefore, Money in view of Dahm discloses determining a discounted billing rate based on time period the subscriber has been a customer and generates larger discounts for longer customer time periods and higher cost subscription plans, but fails to teach determining a discounted billing rate based on calling plan subscription cost. In a similar field of endeavor, Ruckart discloses a method and apparatus for providing discounted billing rates customers for wireless telephone services (Abstract, col. 3, lines 33-36). Ruckart discloses providing a greater discount if more expensive products are selected (col. lines 51-56). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Money and Dahm with Ruckart to determine a discounted

billing rate based on the price of a product is selected in order to provide a variable pricing structure that rewards customers for choosing a greater number of goods and services (col. 2, lines 5-19).

Claims 41 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Money in view of Dahm as applied to claim 35 above, and further in view of CCP.

Money in view of Dahm discloses the limitations of claim 35 as applied above. Money does not teach applying a continuously increasingly discounted billing rate to a portion of a total quantity of a consumed airtime above a threshold quantity. CCP discloses continuously increasingly discounted billing rate ("Pricing", where CCP discusses discounted billing rates). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Money with CCP to increase the discounted billing rates even further in order to satisfy customers and gain their loyalty in return.

Regarding claim 45, Money does not teach determining a time period the subscriber has been a customer and determining the first discounted billing rate based on a function of the time period the subscriber has been a customer that generates a larger discount for longer customer time periods. Dahm discloses a method and system to provide subscriber loyalty and retention techniques (col. 2, lines 21-43). Dahm discloses offering bettering rates in exchange for longer-term commitment to customers that are likely to churn (col. 11, line 67-col. 12, line 31). Dahm further discloses likelihood of a Customer churning increases each passing month (col. 1, lines 19-27). Dahm also discloses the time usage by a subscriber is air time usage (col. 2, line 28-41). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to combine the billing system as disclosed by Money with the loyalty retention system

as disclosed by Dahm so that a service provider can retain existing subscribers and increase profit by retaining subscribers.

Claims 46 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Money in view of Dahm and CCP as applied to claim 41 above, and further in view of Ruckart.

Regarding claims 46 and 47, Money does not teach determining discounted billing rate based on a calling plan subscription or determining a time period the subscriber has been a customer. Dahm disclose offering bettering rates in exchange for longer-term commitment to customers that are likely to churn (col. 11, line 67-col. 12, line 31). Dahm further discloses likelihood of a Customer churning increases each passing month (col. 1, lines 19-27). Therefore, Money in view of Dahm discloses determining a discounted billing rate based on time period the subscriber has been a customer and generates larger discounts for longer customer time periods and higher cost subscription plans, but fails to teach determining a discounted billing rate based on calling plan subscription cost. In a similar field of endeavor, Ruckart discloses a method and apparatus for providing discounted billing rates customers for wireless telephone services (Abstract, col. 3, lines 33-36). Ruckart discloses providing a greater discount if more expensive products are selected (col. lines 51-56). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Money and Dahm with Ruckart to determine a discounted billing rate based on the price of a product is selected in order to provide a variable pricing structure that rewards customers for choosing a greater number of goods and services (col. 2, lines 5-19).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Lai whose telephone number is (571) 270-1208. The examiner can normally be reached on Monday – Thursday, 9:00 a.m. – 4:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Corsaro can be reached on (571) 272-7876. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Application/Control Number:
10/752,050
Art Unit: 2617

Page 17

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DL

D.L.


DUC M. NGUYEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600